Articles

SERIOUS INJURIES AND DISCREPANT PARENT/ CARER EXPLANATIONS

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There is a group of cases that presents significant challenges to child protection systems and courts with regard to decision making about levels of future risks. These involve families where there has been a serious or fatal physical injury to an infant and where there are discrepant or disputed parent/carer explanations regarding the cause of the injury (including multiple injuries).

New research shows that child protection systems can be inconsistent in decisions that are made about such infants (P. Dale, R. Green and R. Fellows, *What Really Happened? Child Protection Case Management of Infants with Serious Injuries and Discrepant Parental Explanations* (NSPCC, 2002)). Child protection errors arise in two directions: some infants are re-injured, and some are even killed, because of inadequate child protection system interventions (the false-negative error). Also, but less visibly, some infants are placed for adoption without parental consent when the provision of appropriate services could have resulted in a successful reunification with parents or kinship carers (the false-positive error).

SERIOUS INJURIES WITH DISCREPANT EXPLANATIONS RESEARCH

The definition of 'serious injuries with discrepant explanations' (SIDE) comprises infants (0–24 months) who have been subject to any, or combinations of:

- head/brain injuries;
- fractures (skull, ribs, limbs);
- burns;
- lacerations;
- severe bruising;
- poisoning;
- suffocation.

The phrase, 'discrepant explanations', refers to additional features where parents/carers offer: no explanations; inconsistent explanations; conflicting explanations; or explanations that are disputed by expert medical opinion (which, however, itself may be conflicting). The study, undertaken under the auspices of the National Society for the Prevention of Cruelty to Children (NSPCC), examined child protection case management of 38 SIDE cases (45 infants) in relation to two samples: one fatal and the other non-fatal. The analysis of the fatal cases stemmed from a study of 17 'Part 8 Review' reports into the deaths of 19 infants. The 21 non-fatal SIDE cases (involving 26 seriously injured infants) were reviewed via the case files of an independent child protection assessment service provided between 1986 and 2000 by the NSPCC (P. Dale, R. Green and R. Fellows, 'Serious and Fatal Injuries with Discrepant Parental Explanations: Some Assessment and Case Management Issues' (2002) 11 *Child Abuse Review* 296).

FINDINGS

Age of infants and nature of injuries

One important general point is that the findings emphasise the vulnerability of infants in the first few weeks of life. In the

non-fatal sample there were 146 discernible serious injuries to 26 infants, the most common being bone fractures (71% of cases). One third of these cases involved fracture injuries (especially ribs and limbs) to infants aged between 2 and 10 weeks. The earliest recorded injury involved three long-bone fractures to a 2-week-old girl. (Her parents stated that these injuries had happened accidentally while the baby was being passed between them during the night.) One third of the non-fatal cases involved injuries that, at the time, had been recorded as being life-threatening or the cause of permanent disability.

The fatal cases were distinguished by a higher incidence of skull fractures, subdural and retinal haemorrhages. While both groups of infants had suffered violent events sufficient to break bones, those who died were more likely to have experienced serious head impact and/or to have been significantly shaken. In approximately one third of the fatal cases, the fatal injury was the first-known injury incident. In contrast, the majority of the fatal cases involved infants who had been treated previously for SIDE injuries, subsequently being fatally re-injured.

Parent/carer explanations

The types of explanation provided by parents/carers for the SIDE injuries at the point of initial child protection investigation included:

- no explanation given;
- accident (involving parents/carer/sibling);
- accident (infant self-inflicted);
- accusation of another;
- admission of responsibility (but denial of extent of violence and intent to cause harm); and
- insistence on non-abuse explanations.

Most commonly (two thirds of cases) at the point of initial child protection/police investigation no explanation was forthcoming. Parents/carers said they had no idea how the injuries had occurred and did not know anything was amiss until the baby had suddenly become seriously unwell, or had been found dead. The next most common initial parent/carer response was to report that the injuries must have been caused by an accident. Such reported accidents included parental clumsiness (eg falling over while holding the baby), or self-inflicted (eg a 6-week-old baby sustaining spiral fracture to a leg by trapping it in an awkward position while sleeping).

Over time, a typical pattern in many cases was for the lack of initial explanation to be followed by the emergence of amended accounts as child protection/criminal inquiries continued. Depending on interpretation, this could either reflect mystified blameless parents/carers attempting to establish the real cause of the injuries, or culpable parents endeavouring to concoct a plausible explanation (that did not implicate themselves criminally) that the child protection system would be willing to accept. In fact, across both samples (fatal and non-fatal) the rate of criminal convictions stemming from the injuries to the infants was very low. Convictions were most likely to result when learning-disabled single mothers quickly confessed to a violent outburst. Most other parents appeared to recognise the value of silence in relation to criminal investigations. This is likely to be a significant factor in relation to the high proportion of SIDE cases where no explanation is offered, or emerges, for the injuries.

Significance of contextual concerns

Records were analysed by means of an instrument designed to record systematically the presence/absence of key indicators from child protection literature associated with serious abuse. These include factors relating to the infant; parents; family; social/cultural context; and the quality of preventive and/or child protection system interventions. In respect of the 38 fatal and serious non-fatal cases in this sample, it is notable that the parents were not unusually young (mean age of mothers, 23; fathers, 26); mothers were as likely as fathers to cause harm (as single parents or jointly with fathers); and stepfathers had a low level of involvement in these families (the rate of stepfather involvement is much higher in the separate sample of SIDE children older

than 2 years). Three quarters of the cases registered the presence of high levels of established child-abuse risk indicators, notably:

- parents abused as children and/or brought up in 'care' systems;
- domestic violence between parents;
- significant substance abuse and drug/alcohol dependence;
- significant parental mental health concerns (but not necessarily formal psychiatric disorders);
- poor parenting skills with ambivalent feelings towards infant;
- patterns of previous minor injuries and poor standards of care.

Child protection agencies were criticised in many of the fatal case reviews for failing to intervene and protect the infant on the basis of serious concerns prior to the fatal event. In contrast, one quarter of cases involved apparently respectable (often middle class) families where there was no pattern of significant child abuse indicators. There is little published research about this phenomenon, where babies are seriously injured or die in suspicious circumstances with few apparent personal, family or social problems.

It is clear from this recent NSPCC study, however, that ostensibly very caring and competent parents can develop intensely negative feelings towards babies and momentarily lose control. False-negative assessment errors arise on occasions when professionals disbelieve that babies can be seriously abused in 'normal', privileged and apparently loving families. Tragically, severe and fatal injuries do occur on occasions in such circumstances. These cases can generate particular difficulties and conflicts regarding child protection and legal interventions. They are prone to extended and contentious civil court proceedings, and criminal trials involving complex conflicting medical evidence if charges are brought. The families often have the resources to challenge the child protection system, for example, by obtaining second opinions, and by making well-articulated formal complaints about procedures and processes to key agencies.

The *Assessment Framework* and specialist assessments

Judicial decisions to return a seriously injured baby home to his parents/carers, or to free such infants compulsorily for adoption are among the most momentous to be made in family proceedings. In reaching judgments about the long-term futures of injured children and their current (and future) siblings, courts rely on assessments of families provided by social services, children's guardians and expert witnesses (including independent social workers, psychiatrists and psychologists). It is pertinent to ask: how consistent and reliable are assessment procedures that are undertaken, and how valid are the recommendations that stem from them?

The NSPCC study noted that with SIDE cases, assessment practice and subsequent decision making could be significantly inconsistent. In one case in the sample, a baby was returned home explicitly because there was no further clarification of how the injuries had occurred. Yet in an equivalent case, another baby was compulsorily adopted because there was no further clarification of how the injuries occurred. One explanation for these inconsistent assessment processes and outcomes is the lack of sufficiently sensitive and specific evidence-based frameworks to weigh real risks of further maltreatment against the possibility of false-positive predictions of further harm.

All social-services assessments in the UK are now based on the *Framework for the Assessment of Children in Need and their Families* (the *Assessment Framework*), recently introduced by the Department of Health (DOH, 2000). 'Core assessments' focus on needs of children (and 'needs' is taken to include the need for protection). While there is merit in this policy in relation to large numbers of deprived families in need of general support services (which are increasingly scarce), it is problematic in relation to families where there may be dynamics of dangerous violence. In such situations, specialist assessments are indicated for SIDE cases that focus on:

- detailed investigation of the dynamics

of the serious injury (the incident domain);
- systematic, neutral and evidence-based inquiry;
- incorporation of the significant body of child fatality and risk research;
- systematic consideration of family strengths and potential for change.

The incident domain

A detailed exploration of what exactly happened – when and where; who was present; and what happened next – can provide vital information to establish the roles of parents, the veracity of accounts and the probability of explanations. Some cases are false-positives, where parents and extended families are denied care of their child/children on the basis of invalid conclusions that they have abused them. An example of this is where there is an unusual medical explanation for injuries that have been determined to be abusive. Unusual events and illnesses that can mimic abuse do occur to infants.

On the other hand, some young children are systematically (and sometimes sadistically) ill-treated by parents with severe personality disorders (including Munchausen's syndrome by proxy). Such parents can present themselves in very plausible ways, and can attract much sympathy for complaints about (valid) child protection interventions, which they portray as being based on incorrect diagnoses and/or false accusations.

Authentic responses of parents who have been mistakenly accused of child abuse (eg anger, challenging professionals and lack of co-operation) are largely indistinguishable from similar behaviour (with distracting motives) by parents who vigorously, yet untruthfully, deny being responsible for serious abuse. Also, to what extent and in what circumstances is it possible that a parent has caused an infant serious harm, yet genuinely does not remember doing so? This question touches on controversial issues in relation to the veracity of memory processes for being abused and abusing (P. Dale, *Adults Abused as Children: Experiences of Psychotherapy and Counselling – Part 3 The Memory Controversy* (Sage Publications, 1999)).

In this context it is in the interests of children and parents that all possible explanations for injuries are systematically considered. It is also important that the entire assessment of parental awareness, responsibility, capability and potential takes place from a neutral professional position. To explore injury incidents and contexts thoroughly from a neutral standpoint is not inherently an 'anti-partnership' approach.

Systematic, neutral and evidence-based inquiry

Over-certain professional views that sometimes do not fall far short of either persecuting parents/carers, or single-mindedly advocating for them, are signs that assessment bias has become a significant factor in a case. There are many sources of potential assessment bias. Cognitive and emotional factors impact on individual practitioners, which affects perceptions and judgments. These factors include belief systems/prejudices (eg pro/anti-parent; pro-reunification/pro-adoption); lack of knowledge/skills; and personal feelings that are ignited by the poignancy and tragedy of seriously and fatally injured babies.

Significant biases (and conflicts) can also arise within the dynamics of the inter-professional group of child protection practitioners. For example, most social services and paediatric departments have staff, or whole teams, that have reputations for 'hard' or 'soft' stances concerning reunification of injured children, or striving at an early stage for compulsory adoption. Unfortunately, there are no national standards for child protection practice that can provide transparency, consistency and regulation with regard to how such judgements are formed and plans pursued. One valuable aspect of independent specialist assessments is that attention can be drawn to the positive or negative nature of the child protection interventions in each case.

Incorporation of the significant body of child-fatality and risk research

As noted, the *Assessment Framework* is based on the policy of identifying child need that stemmed from the collection of

government-sponsored research studies known as *Messages From Research* (DOH, 1995). A key finding of this was that many families were being unnecessarily drawn into the child protection system net – families requiring support instead of being subjected to child protection procedures. While there is value to these observations, they are not sufficiently counterbalanced in the *Assessment Framework* by the substantial extant research relating to parental and family factors associated with fatal child abuse (eg A. Wilczynski, *Child Homicide* (Greenwich Medical Media, 1997)). The substantial 'risk' literature relating to identified factors of 'dangerousness' should have a higher profile in SIDE assessments than is currently provided for by the *Assessment Framework*.

Systematic consideration of family strengths and potential for change

The *Assessment Framework* (at p 16) endorses the view that 'the process of assessment should be therapeutic in itself', and that a significant issue for assessment is parental capacity for change. This is an area where independent 'specialist assessments', recommended by the *Assessment Framework*, can be particularly valuable. Many families find it difficult (and some find it impossible) to have confidence in the neutrality of social services to undertake such an assessment, when at the same time the agency is utilising critical evidence to apply for interim care orders in family proceedings.

In practice, application of key principles (endorsed by the Children Act 1989; the *Assessment Framework*; and the European Court of Human Rights) that assessment practice should provide a therapeutic opportunity for parents/carers and also reflect transparent and fair process, requires a timescale of around 3 months for a sequence of assessment meetings to establish the prospects of therapeutic benefit. Very short ('snapshot') assessments of only one or two sessions (while necessary in urgent situations) are particularly limited with regard to providing a therapeutic opportunity and assessing change potential (J. Stevenson and Dr A. Vetere, 'The Use of Expert Witnesses: Useful or Useless?', in Thorpe LJ and C. Cowton (eds), *Delight and Dole: The Children Act 10 Years On* (Jordan Publishing, 2002)).

Benefits accruing from assessment attention to strengths (to counterbalance assessment foci on parent/family deficits) have been illustrated in three published approaches:

- The 'Signs of Safety' model in Western Australia (A. Turnell and S. Edwards, *Signs of Safety: A Safety and Solution Oriented Approach to Child Protection Casework* (W.W. Norton, 1999)).
- The 'Resolutions' service (S. Essex, J. Gumbleton and C. Luger, 'Resolutions: Working with Families where Responsibility for Abuse is Denied' (1995) 5 *Child Abuse Review* 191).
- The integrated (assessment and therapeutic) service model (P. Dale and R. Fellows, 'Independent Child Protection Assessments: Incorporating a Therapeutic Focus from an Integrated Service Context' (1999) 8 *Child Abuse Review* 4).

All three programmes provide evidence of therapeutic benefit derived by parents from a structured, specialist and independent assessment service for SIDE cases.

CONCLUSIONS

SIDE cases highlight the particular vulnerability of infants to intentional, reckless and sometimes sadistic physical harm at the hands of their parents/carers. Equally, some cases demonstrate that unusual events and conditions can mimic abuse, resulting in distressing and inappropriate child protection interventions.

For parents and professionals the consequences of child protection errors are enormous. False-negative errors involve inadequate child protection responses and infants can be fatally re-injured or subjected to further harm, resulting in permanent disability. On the other hand, false-positive errors arise when it is wrongly concluded that injuries or illness have been caused by abuse, when in fact there is an underlying non-abuse explanation. There are also situations where injuries are caused by

abuse but, with the provision of appropriate services, the child could have been successfully reunified with parents or placed with kinship carers.

The research reported in this article illustrates that child protection practice with SIDE cases varies considerably. Essentially, similar cases may have very different outcomes depending on what combination of professionals and courts happen to become involved. There is a need for much greater consistency and evidence-based assessment and decision making with these cases. In particular, specialist assessments based on risk research, as well as the identification and promotion of family strengths/potential for change, are indicated to complement core assessments provided by social services via the *Assessment Framework*.